

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LUCKENBACH TEXAS, INC.

§

§

v.

§

CIVIL ACTION NO. 19-cv-00567-DH

§

PAUL ENGEL d/b/a LUCKENBACH
LODGE

§

§

JOINT MOTIONS IN LIMINE

Plaintiff Luckenbach Texas, Inc. (“Plaintiff”) and Defendant Paul Engel d/b/a Luckenbach Lodge (“Defendant”) file this Joint Motion in Limine. The parties have conferred and agreed upon the following motions in limine:

1. Whiskey. Evidence or allegations that Luckenbach’s licensing of whiskey is unlawful use of the trademark so long as Plaintiff does not introduce evidence or refer to its licensing of its trademarks to any manufacturer of alcoholic beverages. Any evidence or argument claiming that Luckenbach’s licensing of whiskey is in violation of TABC law is immaterial to the issue in this action and therefore inadmissible. *See* FED. R. EVID. 402.

GRANTED _____ x _____ DENIED _____

2. Unpleaded or Dismissed Defenses. Arguments and evidence concerning laches, unclean hands, or fraud. This Court granted summary judgment on Defendant Paul Engel’s laches defense as well as his unclean-hands defense. Doc. 51 at 17–19.

GRANTED _____ x _____ DENIED _____

3. Protectable Mark. Any evidence or argument denying that Luckenbach owns an exclusive, legally protectable mark for goods and services covered in the registrations or suggesting that its trademarks are invalid or otherwise unworthy of protection.

GRANTED _____ x _____ DENIED _____

4. Abandonment. Any evidence or argument related to Engel's claim that Luckenbach has abandoned its marks, so long as Luckenbach does not seek to introduce evidence regarding its licenses.

GRANTED x DENIED

5. Undesignated Expert or Opinion Witness. Any expert or other opinion testimony or evidence from a witness, whether lay or expert, whether retained or unretained, who was not properly disclosed in the required Rule 26 disclosures.

GRANTED x DENIED

6. Insufficiently Designated Expert or Opinion Testimony or Evidence. Any expert or opinion testimony or other evidence from a witness, whether lay or expert, whether retained or unretained, for which the subject matter of his or her opinions and bases for such opinions was not properly set forth in the required Rule 26 disclosures.

GRANTED x DENIED

7. Unproduced documents or other exhibits. Any document requested or required to be disclosed under applicable Federal Rules of Civil Procedure, but which was not produced prior to the deadline for the parties to file their exhibit lists, unless agreed by the parties in writing prior to trial or ruled upon by the Court.

GRANTED x DENIED

8. Contents of Documents not (yet) Admitted. The contents of any document not then admitted in evidence, except (1) to establish the predicate for admissibility or (2) impeachment of a witness then on the witness stand.

GRANTED x DENIED

9. Bad Faith Cross Examination. Cross-examination questions suggesting facts for which the questioning lawyer has no good faith basis for expecting that such facts will be supported by admissible evidence at trial. FED. R. EVID. 403.

GRANTED x DENIED

